



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**PRICE DANIEL**  
ATTORNEY GENERAL

June 13, 1952

Hon. Hartman Hooser  
County Attorney  
Howard County  
Big Spring, Texas

Opinion No. V-1459

Re: Legality of designation  
by two or more counties  
of the same person as  
commissioner to sell a  
tract of land in which  
each county owns an  
interest.

Dear Sir:

Your request for an opinion of this office  
reads in part as follows:

"When two or more counties own an  
interest in a tract of land, may each  
county appoint the same commissioner to  
sell the respective interests of both?"

"The Counties of Howard, Martin,  
Midland and Ector each own an interest in  
thirty-five acres of land situated in How-  
ard County, which land was purchased in  
1925 for the purpose of obtaining gravel  
for road construction. The counties are  
now desirous of selling this land and all  
want to appoint one man as the commission-  
er to sell said land at public auction."

Section 1 of Article 1577, V.C.S., provides:

"The Commissioners Court may, by an  
order to be entered on its minutes, appoint  
a commissioner to sell and dispose of any  
real estate of the county at public auction.  
The deed of such commissioner, made in con-  
formity to such order for and in behalf of  
the county, duly acknowledged and proven and  
recorded shall be sufficient to convey to the  
purchasers all the right, title, and interest  
and estate which the county may have in and  
to the premises to be conveyed. Nothing con-  
tained in this article shall authorize any  
Commissioners Court to dispose of any lands

given, donated or granted to such county for the purpose of education in any other manner than shall be directed by law."

There is nothing in the above statute or any other law which prohibits procedure outlined in your request. The statute does not place any restriction on the commissioners' court in the appointment of a commissioner for the purpose of selling real estate owned by the county. While it is well settled that counties have only such powers as are either expressly or by necessary implication given them by law, yet, once authority is vested in them, a reasonable construction of that authority will be given to effect its purpose. Commissioners' Court of Madison County v. Wallace, 118 Tex. 279, 15 S.W.2d 535 (1929). Since the commissioners' courts are given broad discretion in making the appointment of a commissioner to sell real estate with no restriction as to whom they may appoint, we agree with you that when two or more counties own an interest in a tract of land the commissioners' court of each county may appoint the same commissioner to sell the respective interests of all.

SUMMARY

When two or more counties own an interest in a tract of land, the commissioners' court of each county may appoint the same commissioner to sell the respective interests of all. Art. 1577, V.C.S.

Yours very truly,

APPROVED:

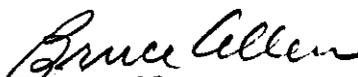
J. C. Davis, Jr.  
County Affairs Division

Mary K. Wall  
Reviewing Assistant

Charles D. Mathews  
First Assistant

BA:mh

PRICE DANIEL  
Attorney General

By   
Bruce Allen  
Assistant